

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
GREAT FALLS DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

KEVIN FALCON,

Defendant.

**CR-09-118-GF-BMM-01**

**ORDER ADOPTING MAGISTRATE  
JUDGE'S FINDINGS AND  
RECOMMENDATIONS TO REVOKE  
DEFENDANT'S SUPERVISED RELEASE**

United States Magistrate Judge John Johnston entered Findings and Recommendations in this matter on January 13, 2016. (Doc. 120.) Neither party filed objections. When a party makes no objections, the Court need not review *de novo* the proposed Findings and Recommendations. *Thomas v. Arn*, 474 U.S. 140, 149-52 (1986). This Court will review Judge Johnston's Findings and Recommendations, however, for clear error. *McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981).

Judge Johnston conducted a revocation hearing on January 11, 2016. (Doc. 119.) Falcon admitted that he violated conditions of his supervised release. The violations prove serious and warrant revocation of Falcon's supervised release. Judge Johnston recommends that this Court revoke Falcon's supervised release and that the Court sentence Falcon to eight months imprisonment. (Doc. 120 at 6.)

Judge Johnston recommends that Falcon be incarcerated at the SeaTac Federal Detention Center. *Id.*

Falcon's violation qualifies as a Grade C. His criminal history category equals VI. Falcon's underlying offense qualifies as a Class C felony. Falcon could be incarcerated for up to 24 months. The Court could order Falcon to remain on supervised release for up to 30 months, less any custody time imposed. The United States Sentencing Guidelines call for eight to 14 months in custody.

The Court finds no clear error in Judge Johnston's Findings and Recommendations. Falcon's violations of his conditions represent a serious breach of the Court's trust. A sentence of eight months of imprisonment represents a sufficient, but not greater than necessary, sentence.

**IT IS ORDERED** that Judge Johnston's Findings and Recommendations (Doc. 120) is **ADOPTED IN FULL. IT IS FURTHER ORDERED** that Defendant Kevin Falcon be sentenced to eight months imprisonment.

DATED this 1st day of February, 2016.



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Brian Morris  
United States District Court Judge

